IN THE HIGH COURT OF JUDICATURE, ANDHRA PRADESH
AT HYDERABAD

FRIDAY, THE FIFTEENTH DAY OF JULY
TWO THOUSAND AND FIVE

PRESENT

THE HON'BLE SMT JUSTICE T.MEENA KUMARI

and
THE HON'BLE SRI JUSTICE P.LAKSHMANA REDDY

WRIT APPEAL NO : 1985 of 1999

(Writ Appeal under Clause 15 of the Letters Patent against the Order dated 18-08-1999 in WP No.2120 of 1998 on the file of the High Court.)

Between:

1.The Deputy Chief Security Commissioner, Railway Protection Force, South Central Railway, Rail Nilayam, Secunderabad.

2.The Chief Security Commissioner, Railway Protection Force, South Central Railway, Rail Nilayam, Secunderabad.

..... APPELLANT

AND

S.M.Pasha, s/o Abdul Gafoor, Muslim, aged about 37 years, r/o H.No.14/27, Hakka Masjid street, Bhirappa Gadda, Uppal, Hyderabad.

.....RESPONDENT

Counsel for the Appellant: MR.GOURI SHANKAR SANGHI

Counsel for the Respondent: MR.J.M.NAIDU

The Court made the following :

JUDGMENT: (Per the Hon'ble Smt Justice T.Meena Kumari)

By this appeal the appellants challenge an order of the learned single Judge rendered in W.P.No.2120 of 1998, dated 18-08-1999 by which order he allowed the writ petition filed by the respondent herein with the observations as mentioned therein.

To appreciate the controversy in the present appeal, relevant facts of the case may be stated in brief:

The respondent was appointed as Railway Protection Force Constable on 05-04-1981. He married one Ramiza Begum in 1984 and begotten three children. After that, his wife had undergone an operation at Nanded. Subsequently, she was taken away by her parents to Vijayawada for further treatment. As he was unable to look after the minor children, and was also not able to discharge his duties, he married one Gousia Parvin Begum on 11-12-1996 with the consent of his first wife. Further, basing on the complaint by his 1st wife, an enquiry was conducted after issuing a charge sheet. The 1st appellant having found that the respondent had violated the provisions of Rule 3 (1) (i), (iii) and 21 of Railway Service Conduct Rules, 1966, imposed a punishment of removal from service, which was confirmed by the 2nd appellant. Challenging the same, the writ petition has been filed.

Having gone through the entire material and the order impugned, the learned single Judge observed that the punishment of stoppage of two increments cumulatively would be sufficient for the offence committed by the respondent,

set aside the order impugned therein and directed reinstatement of the respondent. Aggrieved by the same, the present appeal is preferred by the Railway authorities.

Heard the learned counsel on either side.

We have gone through the material available on record and the order impugned. It is apparent on the face of the record that on the charge of bigamy, the Enquiry Officer having found that the said act is in violation of the Rules in question, ordered for removal from service of the respondent. On the analogy adopted in the order passed in W.A.No.952 of 1998, on which the learned counsel for the writ petitioner-respondent relied, the learned Single Judge has found that the punishment of stoppage of two increments is sufficient for the offence in question, and ordered for reinstatement of the respondent while making it clear that the period during which the respondent was out of service should be treated without any pay.

Considering the facts and circumstances of the case, and in view of the principles laid down by a Division Bench of this Court, in W.A.No.952 of 1998, We are of the view that the learned single Judge is justified in holding that the punishment of removal is disproportionate to that of the gravity of charge and reinstating the respondent into service with the observations made therein. Therefore, we see no merits in this appeal and the same is liable to be dismissed.

Resultantly, the appeal fails and is dismissed.

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T.MEENA KUMARI, J

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P.LAKSHMANA REDDY, J

15.07.2005

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To

1.The Deputy Chief Security Commissioner, Railway Protection Force, South Central Railway, Rail Nilayam, Secunderabad.

2.The Chief Security Commissioner, Railway Protection Force, South Central Railway, Rail Nilayam, Secunderabad.

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